

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF MISSISSIPPI**

**In Re:**

**MICHAEL R. SMITH, SR.  
Debtor**

**CASE NO. 08-10080  
Chapter 13**

**CONSERVATORSHIP OF MAGGIE MAE SMITH**

**PLAINTIFF**

**VS.**

**ADVERSARY PROCEEDING NO. 08-01181-DWH**

**MICHAEL R. SMITH SR.**

**DEFENDANT**

**MOTION FOR ABATEMENT**

COMES NOW, Michael R. Smith, Sr. (the "Defendant"), and files this his Motion for Abatement in response to the Complaint filed herein by the Conservatorship of Maggie Mae Smith ("Plaintiff"), and in support thereof, would respectfully show as follows, to-wit:

1. Plaintiff asserts a claim for dischargeability of a particular debt in connection with certain litigation and claims that are asserted by the Plaintiff, against the Defendant, in the Chancery Court of Rankin County, Mississippi.
2. Plaintiff's claims are unliquidated, contingent claims that must be resolved and liquidated to determine if Plaintiff even has a claim or claims against the Defendant.
3. The Defendant would respectfully show and allege that the litigation pending in the Chancery Court of Rankin County, Mississippi, which gives rise to Plaintiff's alleged claims of non-dischargeability are much nearer completion in that particular state court than they would be in this Honorable Court.

4. Judicial efficiency and economy would best be served in this litigation by the liquidation of said claim in the state court, which may rule that Plaintiff has no claims against the Defendant.

5. Accordingly, Defendant moves the Court for an order abating this adversary proceeding until such time as the underlying claims are liquidated by the Chancery Court of Rankin County, Mississippi.

6. Other grounds to be assigned upon a hearing hereof.

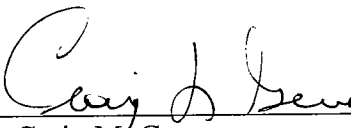
WHEREFORE, PREMISES CONSIDERED, the Defendant respectfully prays that upon a hearing hereof, this Honorable Court will enter its order abating this adversary proceeding pending the resolution of claims in the Chancery Court of Rankin County, Mississippi. The Defendant prays for general relief.

THIS, the 14 day of October, 2008.

Respectfully submitted,

MICHAEL R. SMITH, SR.

By His Attorneys  
HARRIS JERNIGAN & GENO, PLLC

By:   
Craig M. Geno

OF COUNSEL:

Craig M. Geno; MSB No. 4793  
Jeffrey K. Tyree; MSB No. 9049  
Melanie T. Vardaman; MSB No. 100392  
HARRIS JERNIGAN & GENO, PLLC  
587 Highland Colony Parkway (39157)  
P. O. Box 3380  
Ridgeland, MS 39158-3380  
601-427-0048 - Telephone  
601-427-0050 - Facsimile  
F:\Users\Bankrupt\Smith, Mike\Individual\Pleadings\Adversary\Maggie Smith Conserv v\Motion for Abatement.wpd

**CERTIFICATE OF SERVICE**

I, Craig M. Geno, do hereby certify that I have caused to be served this date, via U. S. Mail, postage prepaid, a true and correct copy of the above and foregoing pleading to the following:

Sammye S. Tharp, Esq.  
Office of the United States Trustee  
A. H. McCoy Federal Building, Ste. 706  
100 W. Capitol Street  
Jackson, MS 39269

Laura Henderson-Courtney, Esq.  
Ringer & Simmons  
Post Office Box 737  
Florence, MS 39073

THIS, the 7<sup>th</sup> day of October, 2008.

  
\_\_\_\_\_  
Craig M. Geno